



July 15, 2003

Janice Huddleston, Director
Arkansas Division of Child Care and Early Childhood Education
Department of Human Services
Donaghey Plaza South
Mail Slot 140
700 Main St.
P.O. Box 1437
Little Rock, AR 72203-1437

Re: Advisory Opinion #483-03-10

Dear Ms. Huddleston:

This letter is in response to your request for an advisory opinion in accordance with §19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

- (a) Angela Sims, formerly a Family Service worker with DHS, Division of Children and Family Services (DCFS), resigned in December of 2002 and currently operates a Day Care Family Home.
- (b) While she worked at DCFS, she had no decision-making authority concerning the eligibility of clients or certifying daycare providers for the DHS Child Care Voucher Program.
- (c) You are seeking an advisory opinion regarding the advisability of allowing Ms. Sims to provide day care services to the State.

Under Advisory Opinion # 483-02-6, issued May 9, 2002 to Ms. Debra Taves-Cooper, we answered the question posed regarding another individual who sought to provide day care services under similar circumstances.

“Assuming that the Department of Human Services intends to enter into a Professional/Consultant Services contract, there are no prohibitions contained in the Ethics in Public Contracting Law (Act 483 of 1981, ACA §19-11-701 et seq.) for such a contract with Nana’s Day Care. Under Governor’s Executive Order 98-04 and its regulations, a sole source contract of more than \$10,000 would require approval by the Department of Finance and Administration and the Legislative Council. However, the method of choosing a daycare provider from

the list of certified operators is the choice of the parent(s) of the children to receive the care not the Department of Human Services.

In the final analysis, it is neither “sole source” nor “competitively bid” by the State. We believe that the method of selection in these contracts takes the choice of daycare provider away from the government and therefore provides an equal safeguard against any influence by a state employee, or other government official, such that the contracts may continue to be let in this manner without requiring the approval by the Department of Finance and Administration, and Legislative Council in each case.”

This advisory opinion is issued in accordance with Arkansas Code Annotated §19-11-715(b) and the review requirements of Executive Order 98-04 and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act/Executive Order.

Sincerely,

Richard A. Weiss
Director

cc: Lynn Pumphrey
Rex Jones
Debra Tayes-Cooper
Tom Gay, Office of Atty. Gen.